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August 22, 2022

VIA ECF

Hon. Paul A. Engelmayer
U.S. District Court Judge
500 Pearl Street
New York, NY 10007

Re: *SMS Financial Strategic Investments III, LLC v. 249 West 49th Street, LLC et al.*
Case No. 21 Civ. 10884

Your Honor:

We represent defendants 49th Street Restaurant, LLC, Thomas Burke, and Frank McCole (the "Tenant Parties") in the above-referenced matter and write on behalf of all parties to request what all parties anticipate will be a final 60-day adjournment of the initial conference currently scheduled for August 29, 2022. The Court previously granted two adjournments pursuant to prior joint requests submitted by counsel to Defendant 249 West 49th Street, LLC, on April 21, 2022, and by my firm, on June 16, 2022.

As indicated in the prior requests, this action is a commercial foreclosure action in which a written agreement to sell the property at issue was fully executed in April. As previously noted, the parties to this action expect that, with such purchase, all claims at issue can and will be swiftly resolved without the need for further litigation. Last week, the Tenant Parties received word from their bank that their financing for the purchase of the property had been approved and that a formal commitment letter would be forthcoming. The bank requested that the closing on the purchase be scheduled within 60 days. Accordingly, in order to allow the closing to proceed without the expense and distraction of additional litigation in this matter, the parties respectfully request that the Court adjourn the conference for an additional 60 days.

Respectfully submitted,

Granted. The initial pretrial conference is
adjourned to October 31, 2022 at 2 p.m.

/s/ Ted Trief

SO ORDERED.

Ted Trief
TRIEF & OLK
Counsel to the Tenant Parties



PAUL A. ENGELMAYER
United States District Judge

August 22, 2022

Cc (via ECF): All counsel of record